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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
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October 11, 2018

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755



Re: Officer Involved Shooting of Jonathan Joel Salas
J.S.I.D. File #16-0626
L.A.S.D. File #016-11957-0370-055

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 12, 2016, non-fatal shooting of Jonathan Salas by Deputy [redacted] Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy [redacted] # [redacted]

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MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Jonathan Joel Salas
J.S.I.D. File #16-0626
L.A.S.D. File #016-11957-0370-055

DATE: October 11, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 12, 2016, non-fatal shooting of Jonathan Salas by Los Angeles County Sheriff's Department (LASD) Deputy [redacted] We have determined that Deputy [redacted] acted in lawful self-defense and the defense of another when he fired his duty weapon.

The District Attorney's Command Center was notified of this shooting on December 12, 2016, at approximately 11:05 p.m. The District Attorney Response Team responded to the location of the shooting, where they received a briefing and walk-through of the scene.

The following analysis is based on reports, witness statements, police radio traffic records and recordings, medical records, photographs and forensic reports submitted to this office by the LASD Homicide Bureau. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

On December 12, 2016, at approximately 9:40 p.m., Deputies [redacted] and Honea were in full uniform on patrol in the area of 89th Street in Los Angeles, driving a marked, black and white patrol vehicle. They observed Jonathan Salas (Salas) riding a bicycle on the sidewalk without a headlight, in violation of Vehicle Code section 21201(d) and Los Angeles County Code section 15.76.080.

Through his open, passenger-side window, Honea instructed Salas to stop. Salas looked directly at Honea, then increased his speed and kept riding. [redacted] activated the patrol vehicle's red, flashing lights. Salas crossed in front of the patrol vehicle, turned onto Budlong Avenue, and continued riding north on the west sidewalk. [redacted] and Honea followed, driving parallel to Salas.

Both deputies observed Salas repeatedly reach into his right front jacket pocket while continuing to evade them. Honea and [redacted] saw the butt of a black, semi-automatic firearm in Salas' right jacket pocket. [redacted] ordered Salas to stop and to show his hands. Salas ignored [redacted] commands and continued riding. Honea broadcast over the police radio that they were in pursuit of a "417"[1] suspect on a bicycle.

Shortly after the broadcast, Salas suddenly stopped his bicycle on the sidewalk in an open area between two parked cars. [redacted] stopped the patrol car parallel to Salas. Salas struggled to get off his bicycle and moved directly towards the patrol car, which was approximately five to seven feet away. Salas looked directly at [redacted] and pulled the handgun out of his right pocket while continuing towards the patrol car. Honea exited the car to try to get a clear line of sight to Salas. Believing that he and his partner were about to be shot, [redacted] fired six rounds through his open, driver's side window, striking Salas. Salas fell to the ground and dropped the handgun in the street. [redacted] and Honea detained Salas at gunpoint until backup officers arrived.



[redacted] and Honea's patrol vehicle parked parallel to the west sidewalk on South Budlong.

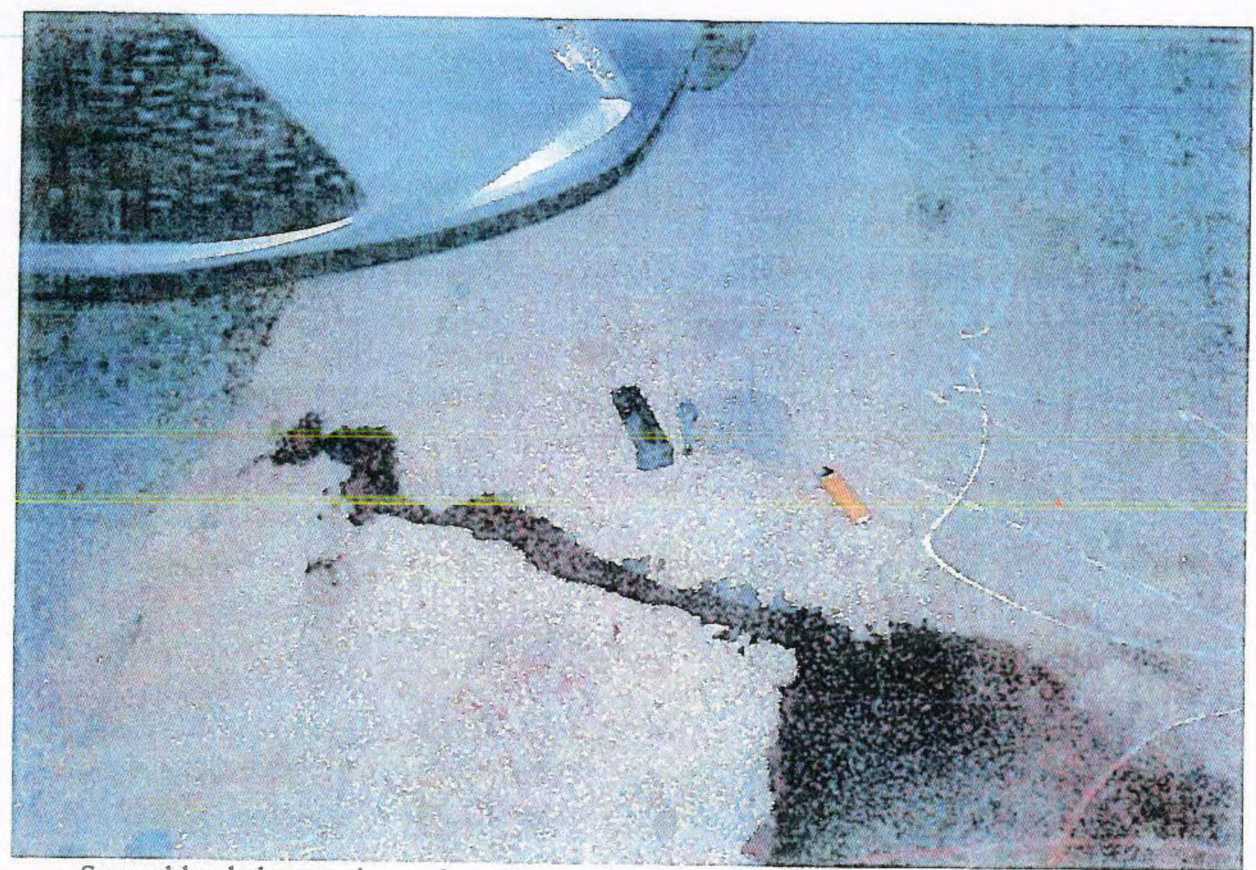
Deputy Marroquin and Deputy Maas responded to the radio call for assistance within minutes. When they arrived, they observed [redacted] and Honea detaining Salas at gunpoint. Salas was lying face down in the street between two parked cars near the west curb, his head pointed north. A black, 9mm semi-automatic handgun and a loaded semi-automatic magazine were within Salas' reach at his feet near the curb. Maas moved Salas away from the weapon.

[1] "417" is code for man with a gun.



Salas' black, semi-automatic handgun and loaded magazine near the west curb of Budlong.

Honea searched Salas and recovered a second, loaded semi-automatic magazine from his front right pant pocket and a marijuana pipe from his rear pant pocket. Honea placed both items on the ground. Honea applied pressure to Salas' wounds while waiting for the ambulance.



Second loaded magazine and marijuana pipe recovered from Salas' pockets by Honea.

The Los Angeles Fire Department arrived at the scene, rendered medical assistance, and transported Salas to UCLA Harbor General Hospital. Salas suffered six gunshot wounds: two to his front right abdominal area, two to his front left thigh, and two to his left buttock.

Jonathan Salas was arrested and charged with felony violations of Penal Code section 417(C), Exhibiting a Firearm in the Presence of an Officer, and Penal Code section 29800(a)(1), Possession of a Firearm by a Felon, and sentencing enhancements pursuant to Penal Code section 667.5(b), in case YA095403.[2]

Witness Statements

Several people stated that they heard shots fired, but did not see anything before or after the shooting. Residents close to the location of the shooting refused to be interviewed by detectives until they contacted an attorney.

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[2] As of the writing of this review, the criminal case against Salas is pending. The preliminary hearing was held on July 10, 2018. Salas was held to answer on all counts. A pre-trial hearing is set for October 16, 2018.

Statement of Deputy [redacted]

[redacted] told investigators while he and his partner were on patrol, he observed Salas riding a bicycle without front or rear lights. Honea ordered Salas to stop. Salas looked in their direction, but kept riding. [redacted] activated the patrol car's red flashing lights.

[redacted] observed Salas reach into his right, front sweater (red hoodie) pocket and pull out what [redacted] recognized as the butt of a black, semi-automatic handgun. [redacted] ordered Salas to stop and let him see his hands, but Salas ignored [redacted] commands.

Salas stopped the bicycle in between two parked cars between a tree and a fire hydrant. As [redacted] stopped the patrol car, he observed Salas stumble off the bike and begin to run towards the car while pulling the handgun completely out of his jacket pocket with his right hand. Salas stepped off the curb into the street while holding his elbow up towards his shoulder and moving his wrist towards [redacted] Believing that Salas was going to shoot him and his partner, [redacted] fired at Salas while seated inside the patrol car. Salas fell to the ground and dropped the handgun. [redacted] estimated that Salas was within five to seven feet of the patrol car when he was shot.

Statement of Deputy Honea[4]

Honea stated that he observed Salas riding without a forward facing light. Through his open, passenger-side window, Honea told Salas to stop. Salas made eye contact with Honea, increased his speed and crossed to the west sidewalk.

Honea observed Salas reach into his front right jacket pocket, play with something inside, and then put his hand back onto the handle bar. Honea continued instructing Salas to stop while illuminating him with his flashlight. As they drove parallel to Salas, Honea saw the back end of a black, semi-automatic pistol in Salas' right jacket pocket. Honea told [redacted] that Salas was reaching for a gun. Honea unholstered his duty weapon, and broadcast that they were pursuing a "417" suspect.

Salas repeatedly put his hand into his right pocket while riding on the sidewalk. In an opening between two cars, Salas suddenly came off his bicycle while simultaneously pulling the handgun from his jacket, and stepped onto the curb towards the patrol car. Honea could not get a clear shot from inside the car, since his partner was sitting between him and Salas. As Honea was exiting the vehicle, he heard [redacted] discharge his weapon. Honea stated that he believed that Salas was going to shoot them as they sat inside their patrol vehicle.

When backup deputies arrived, Honea searched Salas and located a loaded, semi-automatic magazine in his front right pant pocket and a marijuana pipe in his rear pant pocket. The handgun was lying in the gutter next to a loaded magazine.

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[3] [redacted] made a statement to investigators on December 13, 2016. [redacted] testified at the July 10, 2018, preliminary hearing in the criminal case against Salas. His testimony was substantially similar to his statement.
[4] Honea made a statement to investigators on December 13, 2016.

Statements of Jonathan Salas

On December 18, 2016, Deputy Ventura and Deputy Garcia were assigned to security detail of Salas at UCLA Harbor General Hospital. When they arrived, Garcia asked Salas how he was doing and if he was feeling better. Salas responded, "I feel blessed, you know." Salas told the deputies, "I was stupid for going out there." Salas stated that on the night of the shooting, he had ridden his bicycle from Huntington Park and was looking to get revenge on "some black fools or whoever," because one of his "homies" had been shot.[5]

On December 20, 2016, Detective Martinez interviewed Salas in the hospital.[6] Salas told Martinez that he lived in the Florence-Firestone area and acknowledged being a member of the Florencia gang. Salas said that on the day of the incident, he had received upsetting news about the health of some family members. Salas said he rode his bicycle to 7-11, bought some beer, and continued riding to the area of 87th and Budlong. Salas said that he had used methamphetamine and marijuana and was "high." Salas admitted that he was familiar with the area, since he had taken substance abuse classes nearby, but denied knowing anyone who lived there. Salas also denied knowing that it is a gang area.

Salas told Martinez that he was riding his bicycle when a light flashed at him and someone told him to pull over. Salas admitted knowing they were police officers, but said he did not stop because he thought he would go back to jail, since he was out on bail and was violating a gang-injunction curfew.

Salas told Martinez that as he was riding away from the deputies, his bicycle tire hit a bump on the sidewalk, which caused him to crash into a fire hydrant. Salas said he fell towards the street and was "upside down." Salas said he heard voices ordering him to stay on the ground and, before he could move, he heard six shots.

Salas admitted having "weed" and a "clip" in his pocket, but was initially evasive when Martinez asked if he had a gun. After further questioning, Salas admitted having a gun that night, but claimed he could not remember where he got it or why he had it. When asked if he had the weapon for protection, he responded that he did not want anyone to "mess with" him. Salas denied taking the gun out or intending to shoot the deputies.

After the conclusion of the interview when the recording had been turned off, Salas told Martinez that he was lucky to be alive and knew the deputy was "just doing his job."

Statement of [redacted]

Several weeks after the incident, an attorney contacted investigators to set up an interview with residents who witnessed the shooting. On January 16, 2017, detectives met with those residents in the presence of their attorney.

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[5] This interaction was not recorded.

[6] The interview was recorded.

[redacted] stated that he and his family had returned home from the grocery store and were bringing groceries inside the house. [redacted] said that he had just stepped out of his front door when he heard several gunshots. He looked out and saw a police car stopped in front of his house, but was not able to see anything else. He immediately grabbed his eight-year-old [redacted] who was standing near the front gate, and brought her back in the house. He went back outside where he saw a man, who appeared to have been shot, lying in the street.

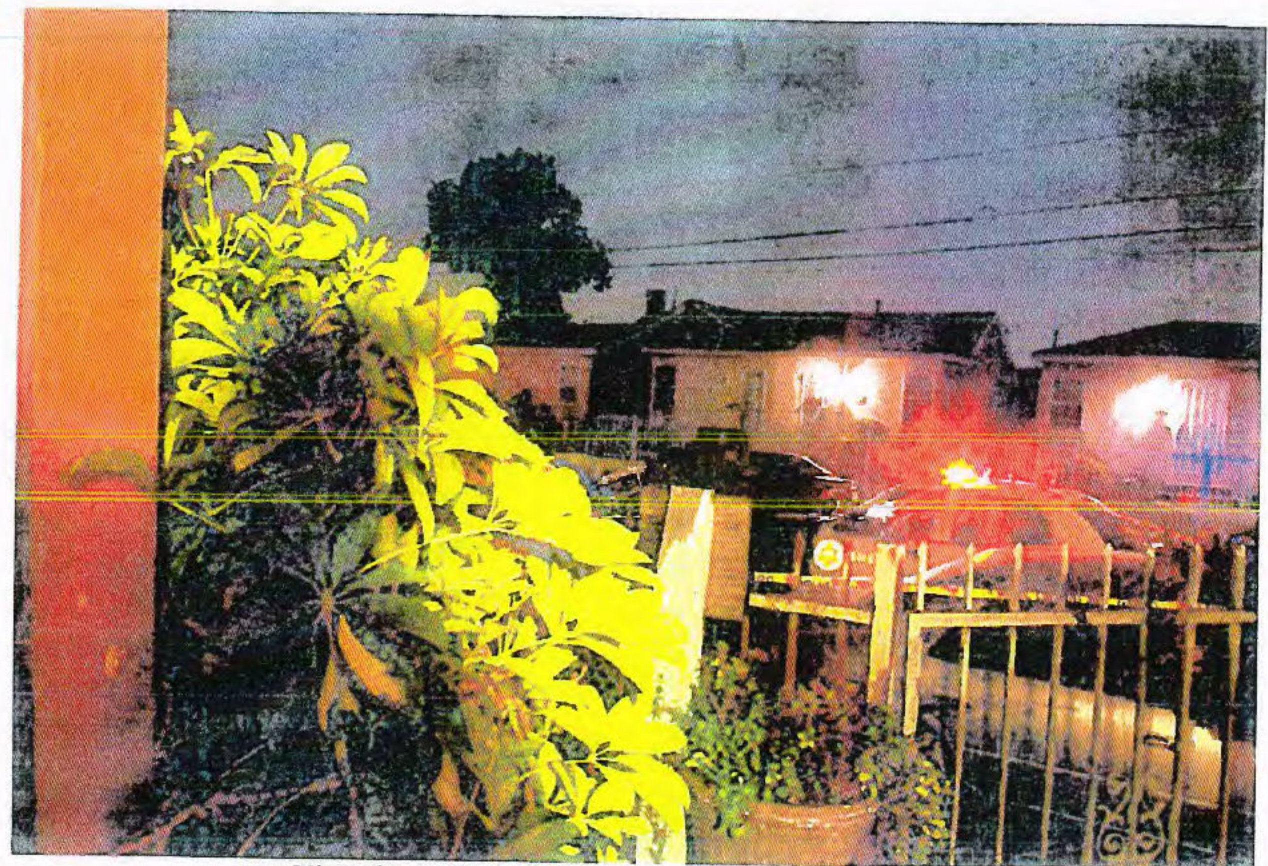
[redacted] stated that he had been afraid to speak with police on the night of the incident because he heard an officer say that the man who was shot was "Florencia," and he feared retaliation against his family if he spoke with the police.

Statement of [redacted]

[redacted] stated that her family had returned from the grocery store when she heard several gunshots and saw "white lights." She was inside the house, approximately six to eight feet from the front door, when she heard the shots. [redacted] said that after she heard the shots, her [redacted] brought their [redacted] back inside. [redacted] said that her [redacted] was crying. [redacted] told investigators that her [redacted] told her that the police shot a man and thought it was her fault because when she opened the gate, the man hit the gate, fell off his bicycle into the street and was shot by the police.

Statement of [redacted]

[redacted] told investigators that she was going to get more groceries from the car when a man rode his bicycle fast in front of her house, tripped over their open gate, and fell off his bicycle to the ground. [redacted] said that she saw a police officer's arm coming out of the patrol car's window holding a gun, and heard about five loud noises. [redacted] was approximately two to three feet inside the gate when it happened. Her [redacted] quickly took her back inside the house. She told investigators that she thought it was unfair because "they did not give him a chance" before they shot him.



View from inside the gate, looking toward the street.

Other Evidence

Photographs of the scene were taken the night of the incident and the next day. LASD Scientific Services Bureau, Forensic Identification Specialist Dominique Enriquez collected a black, 9mm semi-automatic handgun as well as a loaded magazine, containing seventeen 9mm rounds, near the west curb. There was one live round in the chamber of the weapon. The safety was not engaged. Enriquez collected a second, loaded magazine, containing sixteen 9mm rounds, from the street along South Budlong.

Enriquez collected six expended 9mm "Luger" cartridge casings from the scene, which were consistent with the ammunition in [redacted] duty weapon. Enriquez collected one expended bullet fragment from the street near the west curb of South Budlong. Enriquez also recovered a glass marijuana pipe from the street west of the curb.

Enriquez collected Salas' clothes, which were later examined for evidence. A bullet hole in the bottom front right edge of Salas' shirt was discovered, and a fired bullet was recovered from inside the bottom seam of the shirt.

No latent prints were developed from the black, semi-automatic handgun or the two magazines recovered at the scene. DNA was collected from the black semi-automatic handgun, two magazines, and a live cartridge but not analyzed.

Salas suffered six gunshot wounds: one to his right upper anterior abdomen, one to his right lateral flank, one to his left anterior thigh, one to his left lateral thigh, and two to his left buttock.[7] During surgery, doctors recovered two bullet fragments from Salas' abdominal and groin area.

LEGAL ANALYSIS

California law permits a person to use deadly force in self-defense or the defense of another if the person actually and reasonably believes that he/she or another are in imminent danger of great bodily injury or death. CALCRIM No. 3470. *See also People v. Randle* (2005) 35 Cal.4th 987, 994 (overruled on other grounds in *People v. Chun* (2009) 45 Cal.4th 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4th 1073, 1082. In protecting oneself or another, a person may use the force which he believes reasonably necessary, and which would appear to a reasonable person in the same or similar circumstances to be necessary, to prevent an injury which appears to be imminent. CALCRIM No. 3470.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight… The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain, and rapidly evolving – about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

The examination of the evidence revealed that [redacted] and Honea initially observed Salas riding his bicycle without a headlight on the sidewalk and attempted to stop him for the violations. Salas ignored the deputies' numerous commands to stop and continued riding his bicycle in an evasive manner. During the pursuit, both [redacted] and Honea observed Salas repeatedly place his right hand into his jacket pocket and saw the butt of a semi-automatic handgun. Shortly after broadcasting they were in pursuit of a "417" suspect, [redacted] and Honea observed Salas suddenly dismount his bicycle, pull the handgun out of his pocket and move rapidly towards them.

Both [redacted] and Honea stated that they believed that Salas intended to shoot them while they were seated in the police car. Before Honea could position himself to get a clear line of sight to Salas, [redacted] who was closest to Salas and had an unobstructed line of sight, fired several shots at Salas, striking him. After he was shot, Salas dropped a black, semi-automatic handgun with one round in the chamber and the safety disengaged, and a fully loaded magazine. Salas was also carrying another fully loaded magazine.

When interviewed by Martinez, Salas admitted hearing the deputies' repeated commands to stop, admitted knowing that they were police officers, and admitted being afraid of returning to jail because he was out on bail and violating a gang injunction. Salas admitted to Ventura and Garcia that he was riding his bicycle in that area because he was looking for revenge.

The totality of the evidence is inconsistent with Salas' assertion that he was lying motionless on the ground when he was shot. [redacted] stated that Salas was coming directly towards him and he

[7] Medical records do not reveal a clear trajectory or order of the bullet wounds.

aimed at the center of his body before shooting Salas. Medical records show that Salas suffered gunshot wounds to his front upper right abdomen, right side, and two to his front left leg. Although Salas did suffer two gunshots to his buttocks, the number of anterior (frontal) bullet wounds are consistent with Salas being upright, facing [redacted] when he was initially shot. The evidence is not consistent with him being shot six times while lying face down on the ground.

During the pursuit, both [redacted] and Honea repeatedly told Salas to stop. Salas admitted that he ignored their commands and continued riding. While the eight-year old witness expressed the opinion that the police did not give the man a "chance" before shooting him, she would not have been aware of what had taken place during the pursuit. The photograph taken from behind the gate shows that several objects partially blocked the view of the sidewalk, the grassy area, and the street where the shooting occurred. It does not appear that [redacted] would have had a clear view of the entire encounter, or have been able to see if Salas was holding a gun in his hands before being shot.

The weight of the evidence supports the conclusion that [redacted] actually and reasonably believed that he and his partner were in imminent danger of great bodily injury or death at the time he discharged his weapon. While Salas claimed that he did not intend to shoot the deputies, the evidence supports [redacted] actual belief that he and his partner's lives were in danger. Under similar circumstances, a reasonable person could believe that their life, or the life of another, was in imminent danger and use similar force to stop the threat.

CONCLUSION

We find that [redacted] use of force was reasonable to stop the deadly threat posed by Salas. Accordingly, we find that [redacted] acted in lawful self-defense and defense of Honea when he used force against Salas. We are closing our file and will take no further action in this matter.